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ABSTRACT

This report examines the issue of child labor and makes recommendations for changes in New York's child labor laws. It reviews the relationship of child labor to education, the relationship of child labor to social development, child labor and workplace safety, and the role of young workers in the economy. It concludes that simply relaxing child labor laws, as some states have done, to meet the needs of employers for entry-level, part-time workers in a tight job market ignores the fact that the best place children can develop those skills is in school. The report recommends placing the highest priority on protecting children and ensuring that their work experiences enhance rather than detract from their educational experience. Guaranteeing children an education will result in a labor force of workers with the flexibility to keep up with changes in technology. At the same time, the report recommends making some changes in allowable working hours for child workers and making laws more flexible to benefit both young workers and employers. (KC)

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A Report from Thomas F. Hartnett, Commissioner of Labor

Children in the Workforce:

Setting Our Priorities

"Our agenda should promote ways that children and youth can make vital contributions to shaping their own future..."

Mario M. Cuomo, *1989 State of the State Address*

Our children today have ample opportunity to enter the world of work. Employers competing for personnel in an evertightening labor market are depending more and more on young workers who trade after school and weekend hours for job experience and spending money. Unfortunately, hours at work often translate into hours away from school, homework, extracurricular and family activities. And the scarcity of job applicants for low-wage, part-time work often gives young workers access to jobs that would be more safely staffed by mature, experienced adults.

...the abuses of child labor in the early 1900s.

At first glance, the problems of teenagers working in fast food restaurants, retail establishments or other highly visible, relatively clean, family-oriented places of business pale in comparison to the abuses of child labor in the early 1900s. Pictures of young children working in textile mills at the turn of the century continue to define our notion of child labor. Novels, movies and textbooks leave vivid images of elementary school age children dressed in dirty clothing, carrying heavy bundles of manufactured goods through workhouses filled with other children who are operating dangerous machinery. The image includes all sorts of the worst workplace hazards: exposed electrical wire shooting sparks onto piles of material, open containers of dye or industrial chemicals, vermin, unsafe stairways, faint lighting, poor heating.

The dangers of today's child labor are perhaps less dramatic, but nevertheless as serious: they will be most evident tomorrow when young teenagers who took time away from school responsibilities in order to work are unable to gain entrance into college because they lack the required academic skills or fail technical training because they never developed cognitive abilities.

In an era when economic stability depends on the ability to apply or devise new technologies, it is more important than ever to ensure that today's children are prepared for tomorrow's challenges. Jobs in safe, fair work environments can enhance a child's education but they can never and should never replace a child's concentration on academics or opportunity to participate in extracurricular activities.

Going to school is a child's most important job. Ensuring that children have the opportunity to develop the skills we will require of them in the future is our most important obligation.

New York's Child Labor Review

As one of Governor Mario Cuomo's State of the State initiatives, the New York State Department of Labor initiated a review of child labor laws in 1988. The goal of the review was to determine if current laws apply to today's child labor issues and to ensure that the law addresses the need for children to obtain a solid education, recognizes the benefits of a positive work experience that builds on educational experience and preserves a child's right to a safe and fair work environment.

An Intra-Departmental Task Force established on April 1, 1988 collected data from public hearings,

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recent reports, enforcement statistics and a survey of employed minors to outline areas of specific concern. A Child Labor Advisory Committee made up of representatives of education, youth advocacy groups, employers, agriculture, unions, municipal government, medicine and health, other State agencies and experts from new and emerging technologies provided valuable input to the review process.

After careful review of the information and draft recommendations forwarded me by the Task Force and Advisory Committee, along with testimony from public hearings and data from a survey of working children, I feel confident that the recommendations outlined in this report give highest priority to the needs of children who work or who want to work.

Child Labor in Perspective

Current law, which applies to all workers under age 18, generally prohibits these minors from working excessive hours, from operating unsafe machinery and from working in dangerous occupations. Understanding child labor today means recognizing that the law which was created to protect children is often violated. In fact, the New York State Department of Labor's most current data indicates that, despite the best efforts of investigators, there has been an increase in the number of establishments employing children illegally as well as the total number of children found illegally employed.

Children Found Illegally Employed

Establishments employing children illegally	1988	1987	% Change
New York State	352	224	+57.1
New York City	122	19	+542.1
Suburban Area	53	65	-18.5
Upstate Area	177	140	+26.4

Children found illegally employed	1988	1987	% Change
New York State	751	686	+9.5
New York City	182	31	+487.1
Suburban Area	120	148	-18.9
Upstate Area	449	507	-11.4

A 1988 survey conducted by the New York State Department of Labor indicates that 56% of the 1,106 teenagers whose survey responses were analyzed had participated in prohibited work activities or experienced a child labor violation at work.

Type of violation	% of teens reporting violation
Legal rights not explained	25%
Asked to work off the books	22%
Worked after midnight	20%
Excessive hours (14-17 year olds)	14%
No working papers (Employment Certificates)	13%
Used a prohibited machine	11%
Injured on the job	9%
Worked in prohibited job	5%

There are obvious economic reasons for increased dependence on child labor and subsequent increases in child labor law violations. A shrinking 16-17 year old population and fewer incentives for older, more experienced workers to take part-time jobs that offer low pay and few benefits, have led employers to recruit 14 and 15 year olds whom they may have once considered too young for employment. In the absence of adult employees, children are often scheduled for excessive hours and may find themselves assigned to the operation of dangerous machinery in hazardous surroundings.

Researchers and educators who see the effects of child labor warn that inappropriate work experience can jeopardize the education, social development, and safety and health of our children.

Relationship of Child Labor to Education

Children often devote more time to work than they do to school. A 1986 Harvard Graduate School of Education publication stated that adolescents who work do less homework and miss school more often than their counterparts who do not hold jobs. School teachers, principals and superintendents across the State have expressed serious concern about the academic performance of children who work long hours or late into the night. They have observed drops in grades, absenteeism and fatigue in students that have the opportunity and choose to work excessive hours.

The economy is already displaying the most rapidly increasing number of job opportunities in health occupations, service industries; including banking and insurance, computer technology, and other occupational fields that require the highest levels of communication skills, technical aptitude and cognitive ability. Spending too much time in after-school jobs today may impair a child's ability to establish a career in the future.

Relationship of Child Labor to Social Development

Working can provide children with an opportunity to develop a sense of responsibility, gain self-confidence and learn business-related skills, but working can also detract from a child's social development. Working students report that their jobs conflicted with a variety of leisure time activities. Educators point out that children who work have less time to spend with their families, to participate in after-school activities like sports, drama, music, journalism, etc. Those activities are much more than diversion. They are designed to offer students opportunities to explore their interests, develop skills and sustain their interest in school.

Child Labor and Workplace Safety

As technology has changed so have hazards that are present in the workplace. Machinery has become more sophisticated and sometimes safer. On the other hand, substances used for cleaning, maintenance or machine operation are often more toxic. Children, because of lower skill or comprehension levels and because they are less physiologically mature than their adult co-workers, are often at greater risk of injury by machinery or toxic substances.

The New York State Department of Labor's 1988 survey of working teenagers in different areas of the State gathered data on their experiences with employment. Of the 1,106 questionnaires analyzed, 126 teenagers indicated that they had worked on a prohibited machine and 60 reported that they worked at prohibited jobs. Over 100 of those teenagers surveyed reported work related injuries. While new workplace technology has redefined the kinds of jobs and machines that are likely to injure a young worker, children continue to jeopardize their health and safety when employed in inappropriate occupations.

The Role of Young Workers in the Economy

The role of children in today's economy is to attain the skills that will enable them to build tomorrow's economy. Jobs that employ children should play some part in that educational process. When young people work appropriate hours in safe conditions, they do benefit from the experience. When employers understand the priority of education for young people and find the proper balance between work and education they can contribute to the education of our children at the same time that they maintain and build their businesses.

Recommended Changes to the Child Labor Law

All of the recommendations which require legislative action have been included in a proposed Governor's program bill.

Working Hours

When children do not have to get up for school or complete homework assignments for the next day, it should be permissible for them to work longer blocks of hours. Employers should be encouraged to utilize young employees for shifts that occur during times that will have less impact on academic performance (i.e. working students have time to complete assignments and receive adequate rest). *My recommendations charted below restrict the amount of time children can work on days preceding schooldays, allow more flexibility in the hours they can work on days preceding weekends, holidays or other non-schooldays and extend the hours during which they can work when school is not in session.*

Hours for Minors 14-15 Years of Age When School is in Session

Max. Daily Hours	Max. Weekly Hours	Max. Days Per Week	Permitted Hours
	Present Law		
3 hrs.-schoolday 8 hrs.-other days	23	6	7 a.m.-7 p.m.
	Recommended Changes		
3 hrs.-day before schoolday **8 hrs.-day before non-schoolday**	23	6	7 a.m.-7 p.m.

This change limits the number of hours minors can work on days preceding schooldays (Sunday through Thursday) to three hours thereby reducing the likelihood of time at work superseding time spent on homework. Minors can work 8 hours on days that precede non-schooldays (Friday, Saturday, days before holidays).

Hours for Minors 14-15 Years of Age When School is Not in Session

Max. Daily Hours	Max. Weekly Hours	Max. Days Per Week	Permitted Hours
	Present Law		
8 hrs.-any day	40	6	7 a.m.-7 p.m.
	Recommended Changes		
8 hrs.-any day	40	6	**7 a.m.-9 p.m.**

This change offers flexibility in scheduling by allowing 14 and 15 year olds to work past 7 p.m. during vacation time.

Hours for Minors 16-17 Years of Age When School is in Session

Max. Daily Hours	Max. Weekly Hours	Max. Days Per Week	Permitted Hours
	Present Law		
(16 yrs.. old) 4 hrs.-schoolday 8 hrs.-other days	28	6	6 a.m.-midnight
(17 yrs. old) 8 hrs.- any day	48	6	6 a.m.-midnight
	Recommended Changes		
(16 and 17 yrs. old) 4 hrs.-day before schoolday 8 hrs.-day before non-schoolday	**28**	6	**6 a.m.-10 p.m.**

This change categorizes 16 and 17 year olds as one age group with the same employment regulations. The number of hours minors can work on days preceding schooldays (Sunday through Thursday) is limited to four hours thereby reducing the likelihood of time at work superseding time spent on homework. Minors can work 8 hours on days that precede non-schooldays (Friday, Saturday, days before holidays). The latest they could work on any night is 10:00 p.m.

Hours for Minors 16-17 Years of Age When School is Not in Session

Max. Daily Hours	Max. Weekly Hours	Max. Days Per Week	Permitted Hours
	Present Law		
8 hrs.-any day	48	6	6 a.m.-midnight
	No recommended Changes		

Hours for Minors Employed in Farm Work

Max. Daily Hours	Permitted Hours
Present Law	
(12 & 13 yrs. old) 4 hrs.- any day	9 a.m.-4 p.m.
(14 to 18 yrs. old) No hour prohibitions	
Recommended Changes	
(12 & 13 yrs. old) 4 hrs.- any day	**7 a.m.-7 p.m. during summer vacation**
No recommended Changes	
(14- 18 yrs. old)	

This change would allow 12 and 13 year olds employed in hand harvesting to start work earlier in the morning or work later into the evening when the temperature is cooler but would maintain the 4 hour per day restriction.

Prohibited Occupations

As technology continues to change, so will the methods of work. The current child labor law is in need of revision in the area of prohibited employment of minors because there are many new occupations that involve new machinery and/or toxic substances which require further study to determine if they should be prohibited to working minors.

I will establish additional prohibited occupations through use of Section 133(4) of the child labor law and delete occupations from that list when necessary. This option exists in current law but has never been exercised. By utilizing Section 133(4) as it was intended, the list of prohibited occupations can change to reflect advances in technology and work methods. Administrative action would be needed to enact this recommendation.

More specifically, I propose that the law continue to prohibit minors under 18 years of age from employment in the construction industry. Statistical data demonstrates that the construction industry has a higher incidence of workplace injury than any other industry.

Farmwork has also proven to be very hazardous to employees. Workers' Compensation data indicates that 11% of total monetary awards were made to minors working in agriculture. *Therefore, it is my recommendation that no minors 14 and 15 years of age, except on family farms and other allowable exemptions, be permitted to work at occupations in agriculture which have been found to be hazardous and are currently stipulated as such in Federal regulations.* Such a change would require legislative action to delete the current farm work exclusion and a Commissioner's regulation to bring State regulations up to Federal standards.

Variances

Blanket prohibition against extended hours of work for employed minors or employment of minors in certain occupations may not always be appropriate. There should be enough flexibility in the law to accommodate special or unusual circumstances.

- Employers may invest in the most advanced and safe equipment available in order to employ properly trained youth.

- Many young people can prove that they can maintain outstanding academic performance while working.

- Many economically disadvantaged young people must assist their parents or support children of their own by working.

I propose that the Department of Labor permit the employer to apply for variances from child labor law based on advances in technology, safety features of equipment or the unusual circumstances of minor employees. Variation requests would have to be in writing to the Commissioner, would have to be agreed upon by involved labor organizations, would have to be voluntary on the part of the minor, and would have to have written parental consent as well as the concurrence of school officials. Requests would have to prove that variances would not be detrimental to the minor's education, that the safety of the minor would be upheld and that other employment options were not feasible.

Enforcement

The current civil penalties are not adequate for child labor violations and should be made consistent with those for other labor law violations. Currently, child labor civil penalties, which may be for the injury or death of a minor, are less than those issued for wage payment, industrial homework or minimum wage violations.

It is my recommendation that the New York State Labor Law be amended to provide for imposition of civil penalties of up to $500 for a first violation, $1000 for a second violation and $2,000 for a third and subsequent violation.

In addition, I propose that the penalty assessed against an employer where a minor is seriously injured or dies while being illegally employed should be treble the highest maximum penalty allowed by law.

Flexibility for Employers in Scheduling Hours of Work

Current statute requires employers to use an approved form for posting hours worked by minor employees. Posted forms must indicate that the numbers of hours worked by any minor does not exceed that allowable by law. Changes can not be made to the number of hours worked by minors in a given week once the schedule is posted. This provision is very cumbersome for employers who must contact the Department of Labor to change a minor's work hours every time a schedule must be adjusted.

I recommend that the Labor Law be amended to allow employers to change posted hours providing they do not exceed daily and weekly limits.

Recommend Changes to Administration

Streamline the Employment Certification Process

At public hearings that were held across the State, employers explained that the current process for certifying minors does not always ensure that minors understand the child labor law or that they are not receiving multiple certificates which increase the chances of them working more than one job and excessive hours.

It is my recommendation that the Department of Labor work in conjunction with the State Education Department to ensure that the process of certifying minors for employment enhances efforts to inform youths and employers of the child labor law and provides a means for enforcing the law. Those steps should include:

- consolidating the various Employment Certificates and Farmwork permit into a single certificate issued at age 14 to all in-school youth who make a one-time application,

- development of school curriculum material regarding child labor laws and employment responsibilities,

- making issuance of certificates contingent upon evidence that the youth had attended a child labor law course,

- the Commissioner of Labor convening a series of meetings with appropriate agencies to focus on the problems of certification, data collection, systems linking school to the world of work and child labor law education.

Educational and Public Awareness Program

Many employers, union officials, parents and children are not aware of current provisions in the child labor law or issues that necessitate enforcement of the law. Any changes to the law will only add to confusion or ignorance. No law is effective or enforceable if the people it affects are unaware of how it applies to their own situation.

The Department of Labor will conduct an educational and public awareness program concerning the child labor law. Such an effort would require coordination with the State Education Department and United States Department of Labor and may include production of a videotape or recognition of employers who support and provide safe, rewarding work experiences for minors. The program would provide information to school officials, parents, and employers as well as children who are eligible for employment certification.

Information Exchange with the United States Department of Labor

Enforcement efforts would be greatly enhanced by an exchange of data and information with the United States Department of Labor. *The New York State Department of Labor will explore the feasibility of entering into a reciprocal agreement with the U.S. Department of Labor to exchange statistical data in relation to the employment of minors and violations of the child labor law.*

Continuation of Child Labor Advisory Committee

I have commended the Child Labor Advisory Committee for the fine work they have already completed. Child labor issues will continue to change as technology and demographics change the workplace and the work force. The Department of Labor has a constant need for input and information on how laws must be revised or amended in order to protect working children.

I recommend that a Child Labor Advisory Committee be established to examine child labor issues, especially in the areas of hazardous materials, child performer regulations, door-to-door sales employment, regulations regarding newspaper carriers, the relationship of transportation to employment, changing technologies and methods of developing a database of child labor statistics and information.

Conclusion

At a time when employers are desperately searching for people to staff entry-level and part-time positions it is particularly tempting to ease child labor restrictions and create greater access to a valuable labor pool. Many states have chosen to do just that, to expand the numbers of daily and weekly hours children can work and relax regulations on occupations that may pose a threat to their health and safety.

In New York State, we recognize that such a strategy is shortsighted. It ignores our obligation to children who must be able to communicate verbally and through writing, to apply knowledge of mathematics and science and to understand complex instructions in order to succeed in the job market. It ignores the increasing need for people who possess those abilities in our offices, factories, hospitals, stores, hotels and other places of business. It ignores the fact that the best place children can develop those skills is in school. Rather than shirking its obligation to children and dismissing the necessity of building a skilled workforce, New York State government, business and labor must look for innovative ways to recruit women with children, older adults, handicapped individuals or college students.

The recommendations in this report place the highest priority on protecting children and ensuring that their work experiences enhance rather than detract from their educational experience. In addition, the recommendations recognize the value of young workers to New York's businesses and provide government and employers with the flexibility to keep the law up-to-date with changes in the economy, technology and demographics.